



KEY POINTS ABOUT THE CASE



Australian Climate Case: Key Information for Zenadth Kes Community

July 2025

Who are Uncle Pabai and Uncle Paul?

Uncle Pabai and Uncle Paul are Torres Strait Islander / Zenadth Kes leaders and Guda Maluyligal men. They are from Boigu and Saibai and are Traditional Owners.

Uncle Paul and Uncle Pabai have brought a case against the Australian Government to protect Boigu, Saibai and all the other islands in the Torres Strait from climate change.

This case is a 'class action' case which means a few people fight in the court on behalf of a bigger group of people because the whole group is being affected by the same problem. Uncle Pabai and Uncle Paul are bringing the case on behalf of all Torres Strait Islanders because everyone in the Torres Strait is being affected by climate change.

The Uncles are saying that the government is not doing enough to protect the islands and reduce carbon emissions, which is making climate change worse and threatening their islands.



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Why are the Uncles taking the Government to Court?

Climate change is a big problem for the Torres Strait and is already causing lots of damage. Climate change makes the sea level rise, causes big storms and changes the natural weather patterns. This is causing flooding, erosion and extreme temperature on the islands which is dangerous for families in lots of different ways:

- Erosion of land, sacred sites and resting places of the ancestors;
- Damage to infrastructure like housing, fresh water sources, sewerage systems and schools;
- Damage to the mangroves, reefs, seagrass beds and ocean which is hurting the fish, turtles and dugong and makes it harder for people to feed their families and practice *Ailan Kastom*;
- Damage to the soil and garden beds which is hurting the birds, ground vegetables and trees and makes it harder for people to feed their families and practice *Ailan Kastom*; and
- Impacts to the physical health and wellbeing of the community, especially Elders caused by extreme heat, mosquito-borne diseases, loss of access to healthcare, culture, spirituality and healthy food.

Scientists say that rising seas could make some islands in the Torres Strait uninhabitable in under 30 years. This would mean communities may have to leave their homes.

Uncle Pabai and Uncle Paul have told the Court that the Australian Government has not done enough to stop climate change from hurting island communities in the Torres Strait and that they have a responsibility to do more.



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How does climate change work and what do scientists say?

Climate change is caused by carbon emissions which come from burning fossil fuels like coal, oil and gas.

These carbon emissions make a blanket around the earth so the heat from the sun gets trapped and makes everything hotter.

The heat makes ice from the North and South Pole melt and causes the sea level to rise. All the heat trapped in the sky and the ocean also causes more extreme storms, cyclones, heatwaves, bushfires, droughts and the death of plants, animals and coral reefs.

Expert scientists can measure how much the earth's temperature has risen or will rise because of the fossil fuels in the atmosphere.

This number is very important because just a small rise can cause big problems. It's similar to a person having a fever – if your temperature goes up just 1 degree it can cause big problems to all the different parts of your body. The higher the temperature goes up the more dangerous it will be for the Torres Strait.

Scientists say that to stop some of the worst harm from climate change, we have to keep the temperature rise below 1.5 degrees.

To prevent the worst impacts of climate change, the Climate Council says that Australia has to:

- Reduce emissions by 75% by 2030 (compared to 2005 levels); and



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- Reach net zero by 2035.

But right now, the Australian Government has said it will reduce emissions by 43% by 2030—far below what the science says is needed.

That is why Uncle Pabai and Uncle Paul are taking the Government to court to argue that they have a duty of care to stop making the earth hotter and causing more climate harm to our communities.

What does Uncle Pabai say?

Uncle Pabai is from **Boigu Island**, which sits just **three metres above sea level** at its highest point. The island is flooding more often because of climate change and could be lost underwater:

"We are born to these islands, they are our mothers, our identities, who we are. For thousands of years, our warrior families fought off anyone who tried to take our homelands from us. But now we could lose the fight to climate change."

I'm a Guda Maluyligal man and a Traditional Owner of the island of Boigu in the Torres Strait. I am in my 50s, with five daughters and two sons. I've lived on Boigu my whole life, and I am a Traditional Owner from the Koedal (crocodile) clan, one of 6 clans on the island.

Boigu is very low-lying – the highest point is 3m above sea level – making it very vulnerable to flooding. The flooding is getting worse because of climate change. As a Boigu man I have specific responsibility to protect sacred cultural sites but the rising sea



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is making it impossible and could mean they disappear forever. Loss of these places would be devastating for Guda Maluyligal communities now and for generations to come. That's why I'm bringing this case – I have a cultural responsibility to protect my community, our culture and spirituality from climate change."

What does Uncle Paul say?

Uncle Paul is from **Saibai Island**, where his family has lived for thousands of years. He has seen firsthand how climate change is affecting his community:

"Weather patterns have changed, seasons have changed. It's affecting everything – our homes, our gardens, our sacred sites, our reefs. If something doesn't change quick then we'll be environmental refugees on our own islands.

I'm a Guda Maluyligal man and a Traditional Owner of the island of Saibai in the Torres Strait. I am in my 50s and have 2 daughters and 6 sons. My family has lived on this island for thousands of years. I am a Traditional Owner from the Umay (dog) clan, one of 7 clans on the island.

Climate change is already here: storm surges are getting worse and the seasons have changed as well. Our gardens now get flooded with salt water, and our homes, cemetery, school and community centre are all at risk. There are also a lot more mosquitos, so the risk of catching malaria is greater.

If we become climate refugees we will lose everything: our homes, community, culture, stories, and identity. We can keep our stories and tell our stories but we won't be connected to Country because Country will disappear. That's why I am taking the



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government to court, because I want to protect my community and all Australians before it's too late."

What are the Uncles arguing in Court?

The Uncles' legal team is arguing that the **Australian Government has a duty of care** to protect the Torres Strait from climate change harms. They believe the government is not doing enough to stop climate change, and is failing this duty.

They are also asking the court to make a decision on:

- Legally forcing the government to cut emissions in line with science, to reduce climate change harms;
- Compensating Torres Strait Islanders for the harm caused by the Commonwealth's approach to climate change; and
- Taking concrete actions to reduce the impact of climate change in the Torres Strait.

What could a win in Court mean?

The case is very complex – which means there are lots of different legal questions the Judge has to make a decision about.

If the Judge says that Uncle Paul and Uncle Pabai have won all or just some of these legal questions – it would make history and be a huge step in the fight for First Nations and climate justice.

A win could mean:



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1. **The Court rules that the government has a duty of care to protect Torres Strait communities from climate change harms.** This could push the law forward, and make it much easier for other people in the Torres Strait to win similar cases in the future.
2. **The Court finds the government has not met their duty to protect Torres Strait Islanders from climate harms.** This could push the law forward even further, and make it much easier for other people in the Torres Strait to win similar cases in the future.
3. **The Court recognises the loss of culture that Torres Strait Islanders face due to climate change harms.** This could lead to future legal cases where First Nations communities seek compensation for the loss of parts of their culture.
4. **The Court orders the government to take action to reduce climate change pollution in line with the science.** This could lead to the government setting lower science-based emissions reductions targets.

The Court could say yes to everything, or just some things. There is also a chance it could say no to everything, but no matter what happens, the Uncles will have made it easier for other people to win cases like this in the future.

Through their case, they have also made thousands of other Australians and people around the world aware of the threat to the Torres Strait caused by climate change, and inspired them to take action for climate justice.



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Who is supporting the Uncles?

Uncle Pabai and Uncle Paul are backed by a strong legal and community support team, including:

- Lawyers from Phi Finney McDonald, a firm specialising in class action lawsuits.
- Grata Fund, a non-profit helping to fund the Uncles' case and campaign, and working with them to raise awareness about what is happening in the Torres Strait and the need for rapid climate pollution reduction and adaptation.
- Other climate-affected communities, including bushfire and flood survivors from Australia and the Pacific.
- Hundreds of thousands of supporters worldwide, many of whom have signed petitions backing the Uncles.

When will a decision be made?

The Federal Court has indicated that a judgment will be delivered at 2pm, 15 July 2025.

This case could be a turning point for climate action in Australia. If the Uncles win, it could push the government to take stronger action on emissions and help protect communities across Australia from climate change.